

EXHIBIT 27

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C O N F I D E N T I A L

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
In Re:

BERNARD L. MADOFF INVESTMENT Adv.Pro.No.
SECURITIES LLC, 08-01789(BR L)

Debtor.

-----x
IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff
Investment Securities LLC,

Plaintiff, Adv.Pro.No .
 09-1182(BRL)

v.

J. EZRA MERKIN, GABRIEL CAPITAL,
L.P., ARIEL FUND LTD., ASCOT
PARTNERS, L.P., GABRIEL CAPITAL
CORPORATION,

Defendants.

-----x

DEPOSITION of ANDREW GORDON, as taken
by and before NANCY MAHONEY, Certified Court
Reporter, RPR and Notary Public of the States of New
York and New Jersey, at the offices of Baker &
Hostetler, 45 Rockefeller Plaza, New York, New York
on Monday, August 16, 2011, commencing at 10 a.m.

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1 Q. Now, when you were involved in
2 reconciling trades, you explained to me earlier how
3 you would get information from Victor Teicher or his
4 people --

5 A. Traders, yeah.

6 Q. -- and you would get information from
7 Morgan Stanley who would be, what, the prime broker?

8 A. Prime broker, yeah.

9 Q. And you would reconcile that
10 information?

11 A. Correct.

12 Q. From those two independent sources,
13 correct?

14 A. Correct.

15 Q. All right. Now, in terms of
16 Mr. Madoff, was there an independent source against
17 which you reconciled the information you got from
18 him?

19 A. No. I mean, there was BDO, right,
20 who audited, I think, at the end, but, no.

21 Basically I got the tickets, I would
22 put them in the system and then reconcile with their
23 month end statements.

24 Q. With Madoff's own month end
25 statements?

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1 A. Yeah, correct.

2 Q. Did you ever hear through the
3 grapevine or in any other way that the Ralph who
4 replaced you at Gabriel Capital had committed
5 suicide in early 2009?

6 A. I did.

7 Q. From whom did you hear that?

8 A. It could have only been Dan or Mark.

9 Q. Dan Hess --

10 A. Right.

11 Q. -- or Mark --

12 A. Mark Weiner.

13 Q. -- Mark Weiner?

14 A. It would have been one of those two.
15 I think it was Dan.

16 Q. And do you remember when you heard
17 about it, was it more or less at the time when it
18 took place or sometime later?

19 A. I don't recall, but I think it was
20 probably, you know, sometime soon after.

21 Q. What do you remember Dan telling you
22 about it?

23 A. I really don't. I don't know. I
24 mean, I know he said basically what you said.

25 Q. That Ralph had committed suicide?

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1 happens is you would get them in the mail, and I
2 just would figure that I didn't get them.

3 Q. Let me see if I understand this.

4 You said that there were some months
5 when the numbers wouldn't tie at the end of the
6 month.

7 What do you mean by that, the numbers
8 wouldn't tie?

9 A. So, you know, I would get my tickets
10 and put them in the system and you get a certain
11 amount. So then at the end of the month -- it
12 didn't happen too often, but every once in a while
13 it would happen where the numbers didn't tie to what
14 I was getting from the statement.

15 Q. So the daily tickets would not tie
16 with the monthly statement?

17 A. Right.

18 Q. Okay. And --

19 A. I don't think that they're daily -- I
20 always thought of them as confirmations, but
21 whatever they were.

22 Q. The confirmations wouldn't tie --

23 A. Right.

24 Q. -- with the monthly statement?

25 And you said you would call. Who

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1 would you call?

2 A. What's his name?

3 Q. Frank DiPascalli?

4 A. Yeah.

5 Q. So you call Frank DiPascalli who
6 worked for Madoff. And then what would happen, he
7 would get --

8 A. We would try and figure out what
9 the problem -- I mean, things happened like that in
10 all the accounts that things didn't tie out. This
11 isn't a one -- so things didn't tie and then, you
12 know, I would get a ticket or would get tickets to
13 make the numbers tie.

14 So the tickets -- it would be like I
15 was missing confirmations somehow.

16 Q. Okay. So at the end of the month,
17 the monthly statement didn't tie with the tickets
18 that you would put into the system. You would call
19 Frank DiPascalli and then he would send you
20 additional --

21 A. We would go and try and figure it
22 out, yeah.

23 Q. And then they would send you
24 additional tickets that would make the numbers tie?

25 A. Or maybe it was something that I did

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1 that was wrong, but, either way, there were times
2 where I got tickets.

3 Q. And would these tickets be corrected
4 tickets from what you got previously or would they
5 be additional or supplemental tickets or might they
6 be either?

7 A. They would be supplemental tickets.

8 Q. And you said you also experienced
9 this not only with Madoff but also with some of the
10 other funds?

11 A. Yeah, generally it would be, you
12 know, the ticket was on the desk and maybe I didn't
13 get it in that hour or, you know, it was, you know,
14 just a daily course of events where we would --
15 where numbers wouldn't tie, but generally they did.

16 Q. Let me ask: With regard to the other
17 funds, was there ever a situation in which they sent
18 you supplemental tickets to make the numbers tie
19 out?

20 A. Yes, but it would probably be because
21 for some reason I didn't get the ticket, but it
22 wasn't -- maybe it was on the desk and, you know, it
23 was never handed to me for some reason, but it would
24 get done pretty quickly. The next day, you would
25 get something in from Morgan Stanley saying, oh, we

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1 did this extra trade, oh, it's on the blotter, but I
2 didn't get the ticket, so let's figure out, you
3 know, where it was and it got reconciled.

4 Q. Were the problems more frequent with
5 the Madoff account than with the other accounts?

6 A. I wouldn't say more frequent, but it
7 was just different because I was in the office with
8 the guys, so, you know -- I was really working for
9 the Gabriel account and it was easier to go to the
10 guys that were on the desk and say did you do these
11 trades.

12 Q. So with the Gabriel and Ariel
13 account, it was easier to get the people to verify
14 the information promptly?

15 A. I would just say that -- yeah, I
16 mean, with the other stuff, also, it was on a
17 monthly basis, right, so I'm kind of getting -- with
18 Madoff, I was getting it on a monthly basis, so I
19 was -- you know, you're getting it -- you're
20 reconciling every month, besides reconciling every
21 day or T plus five, you know, three or five days.

22 Q. So how is that different from what
23 you were doing with the in-house traders?

24 A. With the in-house traders, you're
25 reconciling more on a daily basis versus a monthly

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1 basis. Like, I was getting the statement at the end
2 of the month, so I wouldn't know middle month if
3 there was an issue, right.

4 Q. So you get more to reconcile with
5 Madoff at the end of the month?

6 A. Yeah. I mean, it was -- yeah, it
7 was -- more to reconcile?

8 Q. I'm just trying to understand. I got
9 the sense that you were doing the other ones on a
10 daily basis?

11 A. Right.

12 Q. But with Madoff, you had to --

13 A. It was on a monthly basis, right.

14 Q. Okay. So you had a bigger pile of
15 material to reconcile.

16 Is that right?

17 A. Yeah, but, I mean, as I got the
18 confirms, you know, I would put them in, right, so
19 it wasn't -- it wasn't a lot of work. It was pretty
20 easy to do.

21 Q. About how often would you have these
22 issues arise where --

23 A. It wasn't often.

24 Q. Let me finish.

25 How often did you have these issues

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1 place, shortly after the arrest?

2 A. Yeah, shortly after the arrest.

3 Q. And was it on the phone?

4 A. There was one conversation on the
5 phone, and then we went out and we met -- I met him
6 out, I met him out.

7 Q. And you talked about it again when
8 you met him out?

9 A. Yeah, very, very -- I mean, it was
10 pretty topical stuff, but I talked -- yeah, we
11 talked out a little bit.

12 Q. Well, let me ask you this: In either
13 the phone conversation or when you met with
14 Mr. Hess, did you have any discussion about things
15 either of you may have noticed that in retrospect
16 made you think that Madoff may not have been
17 legitimate?

18 A. No. You know, I did bring up the
19 trade tickets. I'm pretty sure I brought up the
20 trade tickets in the conversation just saying, oh,
21 you know -- again, it was just kind of speculation,
22 you know, after hearing something like that.

23 Q. What did you say about the trade
24 tickets?

25 A. You know, again, I don't recall. It

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1 was something to the effect of, you know, the late
2 tickets, or something like that.

3 Q. Late tickets meaning?

4 A. Meaning that the trade ticket came
5 late. It didn't come that month. It came a little
6 bit after the month.

7 Q. And why did you bring that up?

8 A. You know something, I don't know.
9 You're kind of thinking back on everything and, you
10 know, you think you have -- I don't know. It was
11 just complete speculation.

12 Q. Did Mr. Hess bring up anything in
13 that conversation?

14 A. You know, I don't recall. I don't
15 think he -- I don't recall. I'm trying to be exact
16 on what I say, and I just don't recall.

17 Q. Specifically with regard to the trade
18 tickets, did you mention to him sometimes they would
19 arrive late? Is that what you said to Mr. Hess?

20 A. I probably said something like that.

21 Q. The Madoff trade tickets would arrive
22 late from time to time?

23 A. I probably mentioned something like
24 that, yes.

25 Q. Did you have any discussion with

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1 doing business with someone who was engaged in a
2 massive fraud?

3 A. A hundred percent.

4 Q. Did Mr. Merkin ever ask you to hide
5 the funds' involvement with Madoff from anyone?

6 A. No.

7 Q. Did he ever ask you to hide
8 information from the funds -- from Gabriel or
9 Ascot's auditors?

10 A. No. I didn't talk too much to
11 Mr. Merkin.

12 Q. Did anyone at Gabriel Capital
13 Corporation --

14 A. No.

15 Q. -- ask you to do either of those
16 things?

17 A. No.

18 MR. STEINER: I have no further
19 questions.

20 MR. LAFLEY: We have no questions at
21 this time, but reserve our rights.

22 MS. MALASKA: No questions, but
23 reserve our rights.

24 MR. COLOMBO: Okay.

25 (Deposition concluded 11:20 a.m.)